

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**LEON HAWKINS,**

**Petitioner,**

**v.**

**WARDEN, ROSS CORRECTIONAL  
INSTITUTION,**

**Respondent.**

**CASE NO. 2:19-CV-3870**

**JUDGE SARAH D. MORRISON**

**Magistrate Judge Chelsey M. Vascura**

**OPINION AND ORDER**

On October 30, 2019, this Court overruled Petitioner's objections and adopted and affirmed the Magistrate Judge's Report and Recommendation dismissing the Petition. (ECF No. 8.) On November 18, 2019, Petitioner filed a Motion for Reconsideration (ECF No. 9) on the grounds that the Court misconstrued Petitioner's argument to be based on the Double Jeopardy Clause. Rather, he contends his argument is based on Ohio's allied offenses statute.

As the Court made clear in footnote 1 of the Court's previous order, to have a cognizable claim under 28 U.S.C. § 2254, it must be the case that Petitioner is arguing that the Ohio state courts made an error of *federal* law, not state law. *Jackson v. Smith*, 745 F.3d 206, 214 (6th Cir. 2014). A state court's incorrect application of Ohio's allied offenses statute would not be an error of federal law. *See id.* The Court has no jurisdiction to consider such an alleged error.

Petitioner's Motion for Reconsideration is **DENIED**.

Petitioner has also sought leave to appeal the Court's October 30, 2019, Order *in forma pauperis*. (ECF No. 10.) In that Order, the Court declined to issue a certificate of appealability, certified that any appeal would not be in good faith, and stated that any application to proceed *in*

*forma pauperis* on appeal should be denied. Accordingly, Petitioner's Motion for Leave to Appeal *in forma pauperis* is **DENIED**.

The same remains true with respect to this Order on Petitioner's Motion for Reconsideration. The Court is not persuaded that reasonable jurists could debate that dismissal of this action is warranted (and that reconsideration is not warranted) on the grounds that Petitioner relies on a state law claim, which is not cognizable under 28 U.S.C. § 2254. Therefore, the Court **DECLINES** to issue a certificate of appealability.

The Court **CERTIFIES** that any appeal would not be in good faith such that an application to proceed *in forma pauperis* on appeal should be **DENIED**.

**IT IS SO ORDERED.**

/s/ Sarah D. Morrison  
**SARAH D. MORRISON**  
**UNITED STATES DISTRICT JUDGE**